

1 HOUSE JOINT RESOLUTION NO. 29

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5 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF
6 MONTANA CLARIFYING TO APPROPRIATE FEDERAL GOVERNMENT OFFICIALS THAT MONTANA
7 RESERVES ITS APPLICABLE RIGHTS AND REMEDIES TO REQUEST FEDERAL PREDATOR CONTROL
8 AND TO EXERCISE RIGHTS AND REMEDIES TO PREVENT AND CONTROL DAMAGE OR CONFLICT ON
9 FEDERAL, STATE, OR OTHER PUBLIC OR PRIVATE LAND CAUSED BY PREDATORY ANIMALS, AND
10 URGING THE MONTANA CONGRESSIONAL DELEGATION TO TAKE APPROPRIATE MEASURES TO
11 OBTAIN MEANINGFUL FUNDING AND ASSISTANCE FOR MONTANA CITIZENS AND COMMUNITIES THAT
12 HAVE BEEN ADVERSELY AFFECTED BY FEDERAL WOLF REINTRODUCTION.

13
14 WHEREAS, Article II, section 3, of the Montana Constitution provides all persons with the inalienable
15 right to enjoy and defend their lives and liberties, to acquire, possess, and protect property, and to seek their
16 safety, health, and happiness in all lawful ways; and

17 WHEREAS, the 2001 Montana Legislature enacted section 87-5-131, MCA, to provide for state delisting
18 of the gray wolf upon federal delisting and to provide a plan to manage the wolf as a species in need of
19 management until the Department of Fish, Wildlife, and Parks and the Fish, Wildlife, and Parks Commission
20 determine that the wolf no longer needs protection as a species in need of management and can be managed
21 and protected as a game animal; and

22 WHEREAS, the 2003 Montana Legislature enacted section 87-1-217, MCA, requiring the Department
23 of Fish, Wildlife, and Parks to manage large predators, including wolves, with the primary goals to
24 preserve citizens' opportunities to hunt large game species, to protect humans, livestock, and pets, and to
25 preserve and enhance the safety of the public during outdoor recreational and livelihood activities; and

26 WHEREAS, the 2003 Montana Legislature adopted Senate Joint Resolution No. 4, requesting delisting
27 of the wolf pursuant to the federal Endangered Species Act of 1973, requesting that Congress establish and fund
28 the Northern Rocky Mountain Grizzly Bear and Gray Wolf National Management Trust, requesting that wolf
29 population management methods include nonlethal and lethal methods, encouraging the Fish, Wildlife, and
30 Parks Commission to reclassify the gray wolf when regulation of the wolf population is needed, and requesting

1 the Department of Fish, Wildlife, and Parks or the Department of Livestock to address livestock depredations
2 expeditiously; and

3 WHEREAS, the 2003 Montana Legislature passed House Bill No. 283 (chapter 530, Laws of 2003),
4 directing the Attorney General to prepare a proactive opinion of state options regarding delisting and possible
5 litigation scenarios related to recovery of damages and costs associated with wolf reintroduction in Montana;
6 and

7 WHEREAS, uncontrolled wolf populations and extraordinarily high wolf densities continue to cause
8 damage to Montana's economy, customs, culture, public safety, and public health despite the state's ongoing
9 efforts to conform to federal requirements regarding wolf management plans and the state's regular requests
10 for wolf delisting and despite the declared intent of Congress in 1988 "not to hurt hunting, not to hurt the local
11 economies"; and

12 WHEREAS, wolves are predators and should be managed as predators; and

13 WHEREAS, high wolf population densities resulting from reintroduction are proof of the failure of the
14 U.S. Fish and Wildlife Service to abide by the law and its own regulations; and

15 WHEREAS, the U.S. Congress has yet to address its restitution responsibilities under the Fifth
16 Amendment to the U.S. Constitution for damage to private property, livestock, domestic animals, and Montana
17 wildlife that has resulted from the unnatural and accelerated reintroduction of wolves; and

18 WHEREAS, designation of the wolf as a game animal under the Montana management plan will not
19 supersede or undermine current federal or state law allowing management of wolves for depredation and
20 Montana would be better served by a state management plan that allows the controlled taking of wolves
21 following delisting; and

22 WHEREAS, recent adoption of the final 10(j) Rule under the Endangered Species Act allowed Montana
23 landowners to take additional steps to protect livestock and dogs from attacks by wolves on private land and
24 allowed grazing permittees and guiding and outfitting permittees to take wolves attacking livestock or domestic
25 animals herding and guarding livestock on public lands; and

26 WHEREAS, a recent U.S. District Court decision in Oregon held that the U.S. Fish and Wildlife Service
27 violated the Endangered Species Act by changing the status of the gray wolf from "endangered" to "threatened"
28 in some regions, relaxing protection on many of the nation's gray wolves and effectively disallowing the shooting
29 of wolves that are not part of the reintroduced experimental populations but that are attacking livestock; and

30 WHEREAS, the court decision irreparably harmed the good faith efforts between state and federal

1 agencies to move expeditiously toward delisting the gray wolf and raised the prospect of endless third-party
2 lawsuits that will obstruct and delay the delisting process; and

3 WHEREAS, federal, state, and local governments have a constitutional duty and fiduciary responsibility
4 to provide all available remedies to protect the economy, customs, culture, public safety, and public health of
5 the citizenry.

6
7 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF
8 THE STATE OF MONTANA:

9 That the State of Montana reserves its rights and remedies available by order of the U.S. Secretary of
10 Agriculture to provide funding under the federal Granger-Thye Act for predator control pursuant to Title 7 of the
11 U.S. Code and recognizes that an injunction sought in a court of law cannot divest the State of Montana of those
12 rights and remedies.

13 BE IT FURTHER RESOLVED, that the State of Montana reserves its rights and remedies available
14 through the U.S. Secretary of the Interior pursuant to Section 11(h) of the Endangered Species Act to order
15 predator control in defense of game herds and recognizes that an injunction sought in a court of law cannot
16 divest the State of Montana of those rights and remedies.

17 BE IT FURTHER RESOLVED, that the State of Montana reserves its rights and remedies to prevent and
18 control damages or conflicts on federal, state, or other public or private lands caused by predatory animals,
19 rodents, and birds that are injurious to livestock, agriculture, horticulture, forestry, wildlife, and human safety and
20 health, including threatened or endangered wildlife within Montana, as established by federal or state law or
21 regulation or by county resolution.

22 BE IT FURTHER RESOLVED, that the Montana Congressional Delegation is urged to recognize the
23 statutory concessions made by the State of Montana and is urged to obtain meaningful and substantive funding
24 for the impacts from the federal wolf reintroduction program that was forcibly established in Montana, including
25 emergency federal assistance for those Montana communities that bear the disproportionate burden of the
26 impacts from the federal wolf reintroduction program.

27 BE IT FURTHER RESOLVED, that the Montana Congressional Delegation is urged to review documents
28 published from 1988 through November 22, 1994, that preceded accelerated wolf reintroduction in order to verify
29 that the federal government never intended for high wolf population densities to result in damage to Montana
30 citizens or to strip citizens of their legal rights.

1 BE IT FURTHER RESOLVED, that the Montana Congressional Delegation is urged to respond to this
2 unintended collateral damage to Montana citizens by seeking restitution under the Fifth Amendment to the U.S.
3 Constitution for Montana citizens who have been damaged by the introduction of wolves into Montana.

4 BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the President
5 of the United States, the U.S. Secretary of Agriculture, the U.S. Secretary of the Interior, members of the
6 Montana Congressional Delegation, and all other members of the U.S. Senate and House of Representatives.

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